

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

**SADEKA SUID and ZUHAR SUID as father
and next of friend for ABDALLAH SUID,
a minor,**

2005-CV-0087

Plaintiffs,

v.

KMART CORPORATION,

Defendant.

**TO: Lee J. Rohn, Esq.
Wilfredo A. Geigel, Esq.**

**ORDER REGARDING DEFENDANT'S MOTION REQUESTING PHYSICAL
EXAMINATION**

THIS MATTER came before the Court upon Defendant's Motion Requesting Physical Examination of Plaintiff Under FRCP 35 (Docket No. 90). Plaintiff filed an opposition to said motion. This order is issued without necessity of a reply.

Having reviewed the submissions of the parties, the Court finds that Defendant failed to comply with LRCi 37.1, requiring counsel for the parties to confer in good faith prior to the filing of such motion. Consequently, the Court will strike the said motion and order counsel to meet and confer. In the event the parties are unable to agree regarding the physical examination of Plaintiff, Defendant may re-file its motion.

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Accordingly, it is now hereby **ORDERED**:

1. Defendant's Motion Requesting Physical Examination of Plaintiff Under FRCP 35 (Docket No. 90) is **STRICKEN**.
2. Counsel **shall** meet and confer, at time and place mutually convenient, on or before **Friday, May 2, 2008**.
3. If, after such conference, any dispute regarding any or all of the discovery requests at issue remains, Defendant may re-file their motion, with a proper LRCi 37.1 certification and including the details of such conference of counsel.
4. Any failure or refusal to meet and confer or to meet and confer in good faith shall result in sanctions.

ENTER:

Dated: April 16, 2008

_____/s/
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE